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Human rights situation that require the attention of the Council

General Observations of Myanmar on the report of the Special Rapporteur on the situation of human rights in Myanmar to the 34th Session of the Human Rights Council**

Coordinated armed attacks against police border outposts

1. Since report of the Special Rapporteur briefly mentioned about the attacks, Myanmar would like to provide following additional information in connection with armed attacks against police border outposts.

2. In early hours of 9th October 2016, surprised and coordinated attacks on three police border outposts in Kyetankauk, Kyikanpyin and Ngakhuya were carried out by violent armed attackers. In fact, Kyetankauk police outpost locates in Rethedaung township and the rest are in Maungtaw township. These places are far from each other and such attacks could not possible without advanced plan and coordination.

3. As a result, nine members of the Myanmar Police Force were killed, and 67 weapons of various types and 9024 rounds of assorted ammunition, 47 bayonets, and 164 magazines were taken away.

4. On 3 November, similar attack against Nurula police outpost killed a police officer.

5. On 12 November, the government forces were ambushed near Mayintaung village and subsequent area clearance operations were under attacked near Pwintphyuchaung village and Gwasoe village by over 500 armed violent attackers. From this incident, one column commander lost his life.

6. There are other similar twenty attacks and ambush following 9 October.

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7. The attackers also set off an improvised explosive device against a military convey and damaged the vehicle. An improvised explosive device was also discovered on the road that connects Maungtaw, Zinpaingnya and Ngakhuya villages.

8. As of 15 November, members of the violent attackers committed arson attacks against six villages. A total of over 200 houses were burnt down.

9. Joint columns of army and police had conducted area clearance operations with the cooperation of village leaders in the area where the attackers are hiding.

10. Seven soldiers including one column commander and 10 police lost their lives during the area clearance operations while many others injured. 69 bodies of attackers were found during the incidents.

11. A total of 585 suspects were arrested and 51 of them who do not associate with the attacks were released. 526 detainees are under interrogation. There were 8 deaths of detainees who suffered chronic diseases.

Access to the areas

12. The Ministry of Information facilitated a 3-day trip for media personnel from Myanmar and foreign agencies to the affected areas from 20-22 December 2016.

13. Myanmar arranged a study visit to affected areas on 2 and 3 November 2016, at the request of the United Nations Resident Coordinator. The Union Minister for Border Affairs and the Minister of State for Foreign Affairs led the visit and it was accompanied by the UNRC and a number of Ambassadors. Since transportation was difficult, Myanmar was not able to accommodate many other requests to join the visit.

14. Humanitarian access has been granted to the northern Rakhine State especially to Butheedaung, Rethedaung and southern part of Maungtaw since 4 November 2016. UN agencies, INGOs and NGOs have resumed their functions in these areas. Access has also been granted to all areas of northern Maungtaw to WFP and UNHCR since 19 January 2017 as per their requests. Due to security concerns, access is granted only to locally recruited persons for the time being. The Ministry of Foreign Affairs is maintaining regular contacts with the UN Country Team and the UNHCR in facilitatin, their access to the affected areas.

15. Myanmar also facilitated the visit of the Indonesian Foreign Minister from 19 to 22 January to deliver assistance to both communities in Rakhine State. The Minister handed over the two schools built by an Indonesian NGO along with other humanitarian assistance to the Chief Minister of Rakhine State and the Union Minister for Social Welfare, Relief and Resettlement of Myanmar in Sittwe on 21 January 2017.

16. The ship filled with food, medicines, daily essential goods, bottled water, clothes and blankets worth more than US$ 247,900 from Malaysia docked at Thilawa Port in Yangon on 9 February 2017. On the same day, Deputy Minister of Foreign Affairs of Malaysia Dato Seri Reezal Merican Naina Merican handed over the aid to the Union Minister for Social Welfare, Relief and Resettlement of Myanmar in Yangon.

17. In addition, diplomats are visiting the villages in northern Maungtaw. Access has granted to diplomats from the UK, the US, Australia, representatives from EU, ECHO and members of Labour Party from UK as per requests.

18. On 18 February 2017, there was an attack against members of Tatmataw by armed attackers near boundary pillars No. 56 and No. 57. Though security concerns are still there, the government has been facilitating access of aid agencies and embassies to the villages to the extent possible.

Reprisals

19. Recently findings further revealed that villagers are under life-threatening by extremists and forced to attend terrorist trainings and get involved in violent attacks. On 7 November 2016, violent attackers entered into the house of Nu Mammad from Phukhali village and abducted his two sons. And burnt down their house. Elder son was later found with serious injuries and the younger son was found in another village in good health.

20. Following the interview with media personnel on 21 December 2016, Dus Mammad, also know as Runarmyar, a librarian from Ushaykya village went missing. His body was found later with stab wounds and beheaded. He was killed because he spoke out to the media that accusations against the security forces such as arbitrary detentions, rapes

21. On 27 December 2016, body of village administrative clerk Rawphi from Yedwingyun village was found with cuts and stab wounds. Rawphi was killed for extending his cooperation to security forces.

22. On 28 December 2016, Sirazuhut from Wetkyein village, former head of ten households was also killed for working closely with government for area development activities.

23. Unfortunately, there are a total of 13 similar cases of beheading and killing against those collaborated with the government, speaking out to the media and refused to take part in violent activities.

Efforts taken by Government

24. With regard to national verification, the Steering Committee for issuance of National Verification Card was formed on 8 February 2017 to expedite the process for the benefit of Muslim community in Rakhine State. The Union Minister for Labour, Immigration and Population leads the Committee and it is comprised of 7 members from relevant government agencies.

25. May Yu FM radio programme has been introduced. It can be received within the area of Buthitaung, Maungtaw and Yathedaung townships in Rakhine State. Myanmar hopes that it will enhance the understanding of the Muslim community on what the Government is doing and contribute to its efforts for integrating them to the rest of population.

26. With the stabilization of the situation in northern Rakhine, curfew in the area was relaxed from 9 pm to 5 am instead of from 7 pm to 6 am.

27. Clearance operations conducted by the military and police have ceased, and only police presence are seen in the area for the maintenance of peace and stability.

28. The local authorities in Maungtaw district are heeding the needs of local population there. Schools are now opened and additional teachers have been appointed. Bazaars are reopening, and transportation is provided to local population as necessary.

29. The Ministry of Health and Sports is working together with the UNICEF for nutrition related survey because earlier surveys were not satisfactory in terms of method of study and application of ethical guidelines.

30. A committee led by the Maungtaw district commissioner was also established for the resettlement of villages where houses were burnt down.

31. The Central Committee on Implementation of Peace, Stability and Development of Rakhine State has been monitoring and coordinating the work of different government agencies in improving overall situation in Rakhine State. The Central Committee is addressing not only short-term needs but also for long term requirements.

National Investigation Commission

32. A national-level investigation commission was formed by the President of the Republic of the Union of Myanmar on 1 December 2016. The Commission is headed by Vice-President U Myint Swe, with the composition of 13 eminent persons from various fields.

33. The Commission is mandated to look into the followings and submit its report directly to the President with its recommendations to maintain stability in the area:-

(a) Incidents of violent attacks in Maungtaw and their background situations and causes

(b) Deaths, injuries, destruction and other damage

(c) Measures taken for restoring stability and the rule of law

(d) Verification of outside allegations during area clearance operations

(e) Guarantee for security and human rights of the people

(f) Conflict prevention and humanitarian aids

(g) Measures to avoid similar incidents in the future

34. The Commission is looking into the allegations contained in the report of the Office of the High Commission on Human Rights on 3 February 2017. From 10 to 17 February 2017, the Commission made field visit to twenty villages where alleged abuses were reportedly taken place.

35. The report of the Investigation Commission was scheduled to submit to the President on 31 January 2017. However, the submission date is extended so that a thorough report could be prepared after necessary investigations.

36. At the request of the National Investigation Commission, the military and police formed their own investigation teams to probe into the allegations.

37. In addition, the Myanmar side get in touch with the Bangladesh side for possible visits of some members of the Investigation Commission to Cox's Bazar.

Matters related to Kachin and Northern Shan State

38. For a country that has experienced over six decades of internal armed conflict, nothing is more important than the achievement of lasting peace and national reconciliation.

39. Myanmar convened the first session of the Union Peace Conference, also known as the 21st Century Panglong which is based on the principle of inclusiveness and embodies the spirit of Union. The first session of the Conference took place in Nay Pyi Taw from 31 August to 1 September 2016. Now, preparations are underway to convene the second session of the Conference which is scheduled to be held in the near future.

40. It is the first vital step on the country's journey to national reconciliation and lasting peace. A series of discussions are continuing on political framework and political dialogues.

41. At the same time, we have much concern about some clashes in Northern Shan State and Kachin State recently. Part of the reason is expanding territory with the aim of claiming more land in the process of peace and political dialogues. There are also clashes among the non-state actors for similar disputes.

42. Trust building is important to reduce the tensions from both sides. Both sides need to avoid any action that may lead misunderstanding. To do so, it is prerequisite for parties

involved in clashes to sign the NCA. That is why the government is encouraging the remaining non-signatory groups to join the NCA as early as possible.

Humanitarian Aid Activities in Kachin State

43. There are concerns raised by some about access to non-government controlled areas to provide humanitarian assistance.

44. The question is the number of IDPs in non-government controlled area. There are 100 IDP camps in the area. 80 are in government-controlled area while the rest 20 are in the other side. It is said that there are over 40,000 population in 20 camps which is higher than the number of IDPs in 80 Camps located in government-controlled areas.

45. There is no restriction imposed on United Nations agencies and other international organizations as well as local NGOs to provide assistance to displaced persons in government-controlled area.

46. The military has designated 11 points in government-controlled area where displaced from the other side can come out and bring the assistance back.

Sexual Violence

47. Please refer to the annex table for actions taken against military personnel who committed rape and sexual abuses.

48. Reference is made to paragraph 56 of the report in connection with the case of Maran Lu Ra and Tangbau Hkwan Nan Tsin, the military extended its full cooperation with the Court. All 26 military personnel were investigated and found not guilty. Nonetheless, some suspects from non-government controlled area never appear before the court.

Proposed Benchmark

49. Myanmar is considering the benchmark suggested by the Special Rapporteur.

Observations by the Government

50. Myanmar established National Investigation Commission on 1 December 2016 to probe into violent attacks in October 2016 and to verify outside allegations during area clearance operations. Although the report was due earlier, the Commission mandate has been extended as new allegations from the OHCHR report need to be verified. Until now, the Commission works is continuing with strengthened capacity and wider scope in area. As such efforts are yet to be conclusive, establishing a Commission of Inquiry described in Paragraph 88 (a) of the report shall not only make the Government's efforts difficult but also be counterproductive. By the same reason, the notion of a Special Session of the Human Rights Council is unwarranted.

51. The action of the OHCHR office and its report came to knowledge of the government as a surprised whilst Myanmar is demonstrating constructive cooperation with the Office at the high level of government. The works leading to the report did not apply a balanced approach, and it suggests no solution to the current and persistent issues in Rakhine State. It focused on actions for penalizing based on allegations.

52. Myanmar takes note of other information and recommendations contained in the report and responses will be made as and when appropriate.

Totals of actions taken for the rape cases and rape with murder cases committed by the army man to the civil girls from 2015 to 2016

No.	*Year*	*Number of cases*						*Total cases*	*Cases that transferred to Civilian Court*		
		Rape			*Attempt to commit rape*						
		Officer	*Other rank*	*Total*	*Officer*	*Other rank*	*Total*		*Officer*	*Other rank*	*Total*
1	2015	-	5	5	-	-	-	5	-	5	5
2	2016	-	4	4	-	1	1	5	-	4	4
	Total	-	9	9	-	1	1	10	-	9	9

From 2015 to 2016,

Rape Cases - 9 cases (transferred to Civilian Court - 9 cases)

Attempt to commit rape - 1 case (Military Court) (5 years imprisonment in civilian prison)

Rape cases that have been taken action during 2015

No.	*Private Number*	*Rank*	*Name*	*Army*	*Date & Time*	*Victim*	*Father's name*	*Charge & Section*	*Penalty*
1	Ta-386019	Private	Kyaw Kyaw Soe	Kha ma ya - 378	29-12- 10 (07:30) (Myauk U)	Ma Than Than May	U Myint Tun	Section 37(a) of Defense Services Act (Desertion)	(3) years imprisonment under section 37(a) of Defense Services Act, Dismiss, transferred to civilian court for rape case
2	Ta-287753	Private	Nay Win Aung	Kha ma ya - 354	19-2-15 (06:00) (Sittwe)	Ma Htay Htay San	U Hla Aung Sein	Section 38(a) of Defense Services Act (Absent without leave)	(1) year imprisonment under section 38(a) of Defense Services Act, Dismiss, transferred to civilian court for rape case
3	Ta-481180	Private	Saw No Oo	Kha ma ya - 361	6-6-15 (11:45) (Kalay)	Ma Nyein Su Aye	U Aung Ngwe	Section 38(a) of Defense Services Act (Absent without leave)	(1) year imprisonment under Section 38(ka) of Defense Services Act, transferred to civilian court for rape case
4	Ta-389166	Private	Nyan Tun	Camp (Ta Pa Kha)	4-10-15 (17:00) (Taunggu)	Ma Myo Myo Aye	U Ko Myo	Section 47(b) of Defense Services Act (Drugs abuse)	(6) months imprison-ment under Section 47(2) of Defense Services Act, transferred to civilian court for rape case
5	Ta-315534	Private	Than Win	Da Ka Sa (Sittwe) to Kha La Ya-27 Na Ta Kha	27-9-2014 (21:00) (Maupin)	Ma Nyo Nyo San	U Khin Maung Win	Section 18(c) of Defense Services Act	Dismiss under Section 18(c) of Defense Services Act, transferred to civilian court for rape case

Rape cases that have been taken action from January 2016 to October 2016

No.	*Private Number*	*Rank*	*Name*	*Army*	*Date & Time*	*Victim*	*Father's name*	*Charge & Section*	*Penalty*
1	577939	Corporal	Soe Min	Kha Ma Ya- 351 (Ta Pa Kha)	September 2015 (Shwe Kyin)	Ma Lone Lone	U Kyaw Shwe	Section 37(a) of Defense Services Act (Desertion)	(5) years imprison-ment under Section 37(a) of Defense Services Act, De-graded to private, transferred to civilian court for rape case
2	Ta-414151	Corporal	Win Than	Ka Pa Sa-13 (La Pa Kha)	6-4-16 (7:00) (Sin Poung Wel)	Ma Htoo Myat Htay	U Myo Win	Section 38(d) of Defense Services Act, (Absent without leave)	(1) year imprisonment under section 38(d) of Defense Services Act, transferred to civilian court for rape case
3	655229	Sergeant	San Oo	Kha Ma Ya – 709 (Ya Ka Ta)	1-6-16 (10:30) (Phaung Gyi)	Ma Than Than Htwe	U Khin Maung Win (Spouse)	Section 38(a) of Defense Services Act, (Absent without leave)	(1) year imprisonment under Section 38(a) of Defense Services Act, Degraded to service-man, transferred to civilian court for rape case
4	Ta-3438997	Private	Tun Hlaing	Hta Pa Ya-828, Da Ka Sa(Sittwe)	31-3-16 (20:00) (Mruak U)	Ma Su Su San	U Shwe Kyaw	Section 376 of Penal code (Rape) Section 47(b) of Defense Services Act, (Drug Abuse)	(5) years imprisonment
5	Ta-406428	Private	Maung Win	Kha Ma Ya-117, Ya Pa Kha	18-9-2016 (21:00) (Maupin)	Daw Thandar Tun	U Tin Tun	Section 47(b) of Defense Services Act, (Drug Abuse)	Transferred to civilian court for rape case